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**FISCAL YEAR 2008
CHILD AND ADULT CARE FOOD PROGRAM
OPERATIONAL MEMORANDUM #3**

TO: Child and Adult Care Food Program Institutions

FROM: Mary Ann Chartrand, Director
Grants Coordination and School Support

DATE: October 26, 2007

SUBJECT: **Additional Guidance on CACFP Oversight Tools, Training, and Other Operational Issues from the Second Interim Rule**

Food Nutrition Service (FNS) has drafted responses to questions received on various topics on the second interim management improvement rule.

The topics addressed in these attachments are:

- Enrollment Forms
- Edit Checks
- Household Contacts
- Five-Day Reconciliation
- Review Elements (and Other Questions Related to Sponsor Reviews)
- Review Cycle for Sponsored Facilities (and Use of Review Averaging)
- Facility Training, and
- Other changes

If you have any questions, please call the CACFP at (517) 373-7391.

Please keep this memo on file or in a notebook for quick and easy reference.

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Additional Guidance on CACFP Oversight Tools, Training and Other Operational Issues from the Second Interim Rule

Enrollment Forms

- 1. Would you expect an enrollment form to be updated in this situation: parents fill out an enrollment form in July; their child's schedule changes in January; and the discrepancy appears in a review conducted in March?**

Answer: No. The interim rule requires that enrollment forms be updated once a year, so a form that was signed on July 10, for example, would have to be updated and placed in the files by the end of July of the following year. The sponsor should establish policies to help monitors differentiate between routine schedule changes and patterns of discrepancies between meal counts and enrollment information that may warrant further evaluation (e.g., through the use of household contacts).

- 2. If an enrollment form is submitted on September 7, 2005, must it be updated by September 7, 2006?**

Answer: No. Although the regulations state that enrollment forms must be updated "every 12 months," institutions are free to apply a "rule of reason" in these circumstances. For example, many child care facilities enroll children at the beginning of the school year. If parents fail to return the form promptly, the provider or center will follow up to ensure that the enrollment is updated within a few weeks of the start of school. In such circumstances, it would be reasonable to say that the enrollment for a child submitted on September 7, 2005, was valid through the end of September 2006.

- 3. Since Head Start programs have the same hours every day, must they still collect enrollment forms from parents? Could they just ask parents to identify the session (AM or PM) which the child attends?**

Answer: Yes. When a Head Start program has the same hours every day, the Head Start center may simply ask parents to identify the session their children attend when they enroll their children. Although Head Start enrollments are considered to be in effect for two years, Head Start requires centers to have parents confirm the enrollment information if their children participate for a second year. That would still enable a CACFP monitor to establish that a particular child was still a morning enrollee or an afternoon enrollee.

- 4. If an institution uses a sign-in and sign-out sheet, must enrollment forms still be collected?**

Answer: Yes. Each facility would still be required to annually collect signed and updated enrollment forms. However, the enrollment forms they collect would not have to include information on the days, hours, and meals children normally receive while they are in care.

The sign-in and sign-out requirement means that those facilities already collect more specific information about the days and hours that each child is in care than the CACFP requires on an enrollment form.

5. Do enrollment forms have to be maintained at the sponsor level?

Answer: Not necessarily. However, enrollment forms must always be available to Michigan Department of Education (MDE) during an administrative review. For sponsors of homes, the enrollment forms must be filed at the sponsor's office.

6. Will a signed statement from a parent or a printout sent to the facility by the sponsor constitute annual update of the child's enrollment?

Answer: No. A signed statement from a parent that did not also certify that the child's days, hours, and meals received in care had not changed, would be insufficient. However, institutions may provide parents with the previous year's enrollment form, and to ask parents to indicate any changes and to sign and date the form. In that way, parents have an opportunity to indicate a change to their child's days, hours, and meals received in care.

7. Must all enrollments expire on the same date?

Answer: No. Enrollment forms do not have to expire at the same time. As discussed in Question #2 above, FNS allows institutions to stagger the collection of forms. The only limitation is that enrollment forms cannot be in effect for more than 12 months.

8. Does the new requirement for normal days and hours in care on the enrollment form mean that the facility cannot claim meals served to a child at other times?

Answer: No, not at all. The expanded information on the enrollment form is intended to serve as a red flag for CACFP monitors during on-site reviews. It is understood that there are many legitimate discrepancies between a child's projected schedule and the actual attendance and meal counts recorded by a facility. Asking parents to estimate when their children will be in care provides the monitor with information that will make it easier to detect when meal counts are being inflated.

9. How should parents fill out an enrollment form when their work schedule (and child care needs) varies from one week to the next?

Answer: When parents work swing or rotating shifts, FNS would expect them to indicate on the enrollment forms that they work multiple shifts, and that their children would be in care for different hours on different days. Although their schedules may be unpredictable, we would ask the parents to estimate the hours and days they expect that their children will most often be in care.

- 10. For the day care home provider's own children, must enrollment forms be updated annually and must the day care home provider note the normal days, hours, and meals their children receive on the forms (since providers can only claim their children's meals when other children are present)?**

Answer: Yes. Signed and completed enrollment forms, containing the newly-required information on days, hours, and meals received in care, are required for every enrolled child who receives at least one Program meal, including the provider's own.

- 11. What is the definition of an enrolled child? Is it a child who attends a child care facility at least once during the month, or is it a child who may attend, based on the yearly enrollment update?**

Answer: CACFP Regulations define enrolled child as a child whose parent has submitted a signed document indicating that the child is enrolled for child care. Any child who could be in attendance, for the purpose of receiving child care and at least one CACFP meal, would be an enrolled child.

- 12. Do Head Start centers need to have enrollment forms if they have attendance sheets? If so, do they need to capture information on each child's expected days, hours, and meals received in care if all of the children receive the same meals and are in care on the same days?**

Answer: Yes. Children in Head Start centers must still be enrolled for care, and the new information on the child's expected days, hours, and meals received in care must be captured on the enrollment form. However, because the majority of Head Start programs enroll children in a particular "session" (i.e., AM session, PM session, or all day) and provide the same meals to all children in that session, such Head Start centers are permitted to simply capture information on the enrollment form about which session the child will attend that year.

- 13. Why do centers have to have CACFP enrollment forms if the Michigan Department of Human Services (DHS) licensing agencies already require enrollment forms for all children in child care?**

Answer: There is no requirement for a "CACFP enrollment form." Rather, it is required that children be "enrolled for care" in order for their meals to be eligible for CACFP reimbursement. However, the DHS enrollment card does not include typical meals received while in care.

- 14. If a child care facility provides transportation does it still need to include normal hours of care on the enrollment forms?**

Answer: Yes. The enrollment forms must still include the children's normal days and hours in care.

Edit Checks

15. Can MDE adjust a sponsor's claim downward without offering an appeal?

Answer: No. An appeal must be offered unless the sponsor consents to the MDE's correction of a minor error.

16. When should a block claim result in a declaration of serious deficiency?

Answer: The interim rule does not attach a "penalty" to the submission of a block claim, nor does it dictate specific circumstances under which a block claim should lead to a declaration of serious deficiency. Rather, the term "block claim" is descriptive: it describes a pattern of claiming that constitutes a "red flag" and triggers a required follow-up action on the part of the sponsor (the sponsor must conduct an unannounced review of the facility within 60 days of receiving the claim). The unannounced review provides the sponsor's monitor with valuable information which will enable the monitor to more accurately assess the circumstances that resulted in the block claim, and to determine whether there is a legitimate reason for the block claim.

17. Once a legitimate reason is documented for a facility to submit a block claim, does the legitimate reason have to be re-documented each year?

Answer: Yes. As explained in the regulations at 226.10(c)(3), the sponsor's determination that a legitimate cause exists for block claiming by the facility must be established and documented in the facility's case file for each annual review period.

18. What would be a legitimate explanation for a block claim in a day care home?

Answer: A general rule to follow in determining whether a block claim may be legitimate:

The lower the number of nonresidential children in the home, or the lower the number of nonresidential families being served, the more likely it is that the home could trigger a block claim.

Although it is neither possible nor desirable to provide a comprehensive list of the circumstances that could justify a block claim, we have previously identified the following situations as examples of legitimate explanation of a block claim:

- A day care home caring for one or two nonresidential children whose single parent has no sick leave benefits;
- A day care home located near a low-wage factory that specializes in care for sick children of the factory workers; and
- A day care home that offers drop-in care and is always filled to capacity.

No doubt there are other circumstances that could legitimately explain a block claim. These situations can only be determined by the sponsor, which has knowledge of the specific circumstances occurring in its facilities.

19. Can a sponsor substitute average daily attendance or licensed capacity for enrollment in its edit check system and, if so, would this require prior MDE approval?

Answer: No. Sponsors must use enrollment as an edit check.

20. Can a sponsor employ an edit check that is more restrictive than the minimum edit checks required by the regulations?

Answer: Yes, as stated in the preceding answer. However, MDE would always have to ensure that, whatever edit checks the sponsor employs, they include the minimum requirements for edit checks, (enrollment, approved meal type, and block claim) set forth in the CACFP regulations.

21. Does "15 consecutive days" (in the definition of "block claim" at 226.2) refer to calendar or operating days?

Answer: The term "consecutive days" refers to operating days. As discussed in the preamble to the second interim rule, if a facility is providing child care every day of the week, a block claim could occur in just over two weeks of claiming the same number of meals for a meal type (e.g., breakfasts). However, if a facility operates 5 days a week, Monday through Friday, the same block claiming pattern would be established at the end of the third week.

22. Must the "15 consecutive days" occur in one claiming month to constitute a "block claim," or must sponsors track a block claim across two months?

Answer: The definition of a block claim in 226.2 of the regulations identifies a block claim as the same number of meals claimed per meal type for a 15-day period within the claiming period (emphasis added). In most cases, a claiming period will coincide with a calendar month.

23. Is occasional week-end care part of the 15 consecutive days, if a facility normally provides child care Monday through Friday and occasionally on a Saturday?

Answer: Not necessarily. Because the purpose of the block claim is to identify patterns, MDE considers this situation differently. MDE defines consecutive days as the 15 days of normal operation and excludes the odd day.

24. If a child leaves on day 5 of a 15-day period, and another child comes in, is it still a block claim?

Answer: Yes. The edit check identifies the same number of meals per meal type served over a consecutive 15-day period in a claiming period. The meals do not have to be tracked to each child. The identification of a block claim does not automatically signal a false claim. Rather the edit check functions as a “red flag” to alert the sponsor to a possible problem with the claim that requires sponsor follow-up.

25. Since the definition of a block claim is based on the total number of each meal type served, can MDE “refine” that definition in situations where the sponsor’s claiming system allows them to track the meals received by each child?

Answer: MDE cannot “modify” the 226.2 definition of what constitutes a block claim, and the unannounced follow-up review required by 226.10(c)(3) would still need to be conducted, even if the sponsor’s claiming system allows them to discern that different children received the meals on different days. However, if the sponsor’s claiming system allows them to track the meals received by each child each day, that information can be a part of the sponsor’s documentation of the reason that the facility submitted a block claim in a particular month.

26. How will an unannounced follow-up review help prevent block claiming?

Answer: The unannounced follow-up review required by 226.10(c)(3) can help by allowing the sponsor to:

- Compare the number of meals served on the day of the review to the number of meals typically being claimed by the facility; and
- Assess whether there is a legitimate reason for the block claiming pattern that was detected.

27. If a sponsor does not have an automated claim system, how can it check for block claims?

Answer: If the sponsor does not have an automated system, the sponsor’s staff will have to manually check the claims submitted by facilities each month.

28. Does a sponsor with a manual system need to apply each of these three edit checks (enrollment, type of meal, and block claim), to every facility’s meal count?

Answer: Yes. The edit checks specified in 226.10(c) of the regulations must be applied to each facility’s claim each month. Checking a percentage of the sponsor’s facilities is not an acceptable method of complying with these requirements.

- 29. For a sponsored center, are the edit checks applied to each classroom, or to the center as a whole?**

Answer: The edit checks are to be applied to the center as a whole.

- 30. Should sponsors inform facilities of the block claim requirement? If they do, it seems likely that facilities who are submitting fraudulent claims will simply avoid triggering the block claim edit check.**

Answer: Each sponsoring organization can make this determination. It is likely that providers or centers will find out about the edit checks anyway. Furthermore, if a sponsor detects a suspicious claiming pattern and suspects that a facility is submitting false claims, even if the number of consecutive days is less than 15, the sponsor should schedule an unannounced review as soon as possible.

- 31. Do sponsors' edit checks have to be able to separately track different types of snacks?**

Answer: Sponsoring organizations are required to have edit checks that differentiate between types of snacks. If they did not, it would be difficult to tell whether a facility was claiming for three meals (e.g., breakfast, lunch, and PM snack) or four meals (e.g., breakfast, lunch, and both snacks). Therefore, sponsor edit check systems should be designed to capture information on each meal type, and therefore must be capable of distinguishing between AM, PM, and evening snacks.

- 32. In examining the reasons for a block claim, if the facility states that they always care for sick children, how should the sponsor document the accuracy of this statement?**

Answer: The sponsor will be able to assess this statement when it conducts the unannounced follow-up review, examines the enrollment forms, and observes the number of children in care. In addition, even if the sponsor determines that the facility has a legitimate reason for the block claim, the subsequent unannounced review will allow the sponsor to observe the number of children present and further confirm, or refute, the facility statement. The sponsor may also wish to use household contacts to obtain additional information about the number of children typically in care for a particular meal service.

- 33. If a seriously deficient day care home provider submits a block claim, can the sponsor combine its block claim follow-up review with its follow-up to determine whether corrective action was taken on the serious deficiency?**

Answer: Yes. The sponsor should gather as much information as possible during any unannounced review.

- 34. MDE's internet-based claim system will not accept a claim for a meal service that has not been approved. Does the sponsor still need to have its' own edit check of meal types being claimed?**

Answer: Yes. Even though MDE's internet-based claim system may capture facility-level data, sponsors must still have the required edit checks in place so that they are taking responsibility for the validity of the claims being submitted by their facilities.

Household Contacts

- 35. Since the new enrollment form requirements apply only to child care centers and family day care homes, could MDE exempt emergency shelters, Outside School Hours Child Care Center's (OSHCCs), and at-risk afterschool snack/supper programs from its household contact system, both for household contacts conducted by MDE and by sponsors?**

Answer: Section 226.2 defines "household contact" as a contact made by MDE or sponsor "to an adult member of a household with a child in a family day care home or a child care center. . . ." Therefore, MDE's household contact system does not apply to emergency shelters, at-risk afterschool snack/supper programs, or OSHCCs.

- 36. How can information from household contacts be used in appeals? Should a sponsor initiate the serious deficiency process based on a household contact conducted by telephone? What if the parents initially report that their children were not in care, without documenting it in writing, and later, change their story?**

Answer: When household contacts are conducted over the telephone, the sponsor should ask the parent to sign and date a statement to verify the details of the telephone conversation. Even if the parents later change their account, the existence of the original signed statement will be useful if the provider later appeals a proposed termination. (See FY 2005 Operational Memo #19 for further clarification of MDE's policies.)

Five-Day Reconciliation

- 37. Must a day care home sponsor conduct a five-day reconciliation in the home, during the onsite review, or could the reconciliation be conducted in the sponsor's office prior to the review?**

Answer: To conduct the reconciliation, the reviewer would need access to all current enrollment forms, and daily attendance records and meal counts for the current or previous month. If this information is available in the sponsor's office, the reviewer could perform the reconciliation in the office prior to arriving at the home and then complete any necessary follow-up work on the reconciliation during the visit to the home.

38. How can a sponsor monitor conduct a five-day reconciliation if the enrollment forms have not been updated as required?

Answer: The initial step in conducting a five-day reconciliation is to determine whether the enrollment and attendance data are current and accurate. If the monitor determines that the enrollment data are not current or accurate, then attendance data should be used to conduct the reconciliation. In this case, the monitor would require corrective action to bring the facility into compliance with the enrollment requirements at 226.15(e)(2) of the regulations. Depending on the facility's previous record, the corrective action might or might not be part of a declaration of a serious deficiency.

39. In order for an onsite review to count as one of the three required annual reviews, must a five-day reconciliation be performed? What if the review is conducted between the 1st and 5th of the month, and the facility has mailed all of its prior month's documentation to the sponsor?

Answer: Yes. Sponsors must conduct a five-day reconciliation of enrollment or attendance records to meal counts as part of the onsite review, as specified in 226.16(d)(4)(ii). When scheduling onsite reviews, the sponsor should consider factors such as the availability of information needed for the review.

40. In a five-day reconciliation, what constitutes a discrepancy? Enrollment, attendance, and meal counts will rarely be the same.

Answer: When conducting a five-day reconciliation, the monitor's task is to determine whether the meal counts were accurate when compared to the daily or shift attendance for all meal types for the selected five-day period. Enrollment data serves as a check on the attendance data. If attendance exceeds enrollment, for any day or for any shift (if shift care is provided), the monitor must determine the source of the error (e.g., inaccurate attendance records, missing enrollment forms) before the five-day reconciliation can be completed, and the nature of the required corrective action can be determined.

Review Elements (and Other Questions Related to Sponsor Reviews)

41. Does MDE require point-of-service meal counts in a family day care home with more than 12 children?

Answer: Yes. MDE also requires point-of-service counts in other homes that have been found seriously deficient due to problems with meal counts and claims, regardless of the home's size.

42. If the home is licensed as a group home, is a point-of-service meal count required?

Answer: No. License capacity is not the threshold; instead it is the number of children in care.

43. For onsite reviews, should affiliated centers have records onsite, or at the sponsor's facility?

Answer: Records must be available for MDE examination at the time of the review. MDE recommends that records be kept at the sponsor's administrative office, except for the current month.

44. Do all three reviews of each facility conducted annually by sponsors have to be conducted onsite?

Answer: Yes. Even though monitors may review many records in the sponsor's office prior to the review, an onsite review must still be conducted.

45. During a meal service observation, is a sponsor monitor required to be in the facility for the entire meal service period?

Answer: Not necessarily. If the monitor has completed all of the necessary review elements, the monitor may leave. If the monitor has come to review a facility at a scheduled meal time and no one is present, the monitor can either wait for the entire meal service to verify that the facility is missing the meal service, or they can conduct a review at another nearby facility and return before the end of the meal service, either to conduct the review or to verify that the facility missed the meal service.

46. May sponsors claim meal types (e.g., a supper or a PM snack) that they do not intend to monitor?

Answer: No. Although it would be impractical for the sponsor to review each meal service at each facility every year, sponsors must provide reasonable oversight of each meal service claimed by their facilities.

Review Cycle for Sponsored Facilities (and Use of Review Averaging)

47. Must there be no more than six months (nine months if using review averaging) between facility reviews from one fiscal year to the next? In other words, if a sponsor is reviewing a facility three times per year and conducts its third review for FY 2005 on August 15, 2006, must that facility's first review in FY 2007 occur no later than six calendar months later (i.e., by February 15, 2007)?

Answer: Yes. This helps the sponsor to ensure that each facility continues to meet Program requirements on an ongoing basis. It also gives the sponsor enough time to conduct the remaining reviews required for the year, or to follow up on any issues that may arise during the reviews. If the sponsor is using review averaging, the nine-month requirement would be applied in the same way.

48. If the sponsor is notified by the Michigan Department of Human Services of a problem at one of its facilities, will the subsequent review count as one of the three required reviews?

Answer: Yes. It will count as long as it covers all of the required review elements.

Facility Training

- 49. Please clarify the term “annual training.” Does it mean that training must be given within a 12-month period?**

Answer: No. Annual training may be scheduled at slightly different times each year. The basic requirement is that, during each fiscal year, the facility's key staff must be trained. For example, a sponsor that conducts training in November 2004 and April 2006 is complying with the regulations because training was held during FY 2005 and 2006.

- 50. Please clarify: do the new regulations cover only facility training, or are independent centers and sponsors also required to attend training?**

Answer: Facilities, independent centers and sponsors are all required to attend training. Section 226.6(a) requires MDE to provide training and technical assistance to institutions. Facility-level training requirements are addressed at 226.15(e)(14), 226.16(d)(2)-(3), 226.17(b)(9), 226.18(b)(2), 226.19(b)(7), and 226.19a(b)(11).

Other Changes

- 51. Does the food stamp list required to be collected by FDCH Sponsors consist of current participants only (i.e., providers participating at the time that the list is submitted)?**

Answer: Yes.

- 52. In order to be eligible to earn reimbursement, a new center must: be licensed or approved; have had a pre-approval visit; have records documenting the number of meals served; and serve meals that have met the Program meal pattern. Does this mean that a new center can't begin to earn reimbursement until the day of the pre-approval visit?**

Answer: Yes. Both new independent centers and sponsors of centers cannot submit claims until the application has been approved and the pre-approval visit, if required, has been completed.